IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

C.M.A. No.2348 of 2006
and
C.M.P. No.2 of 2006

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore .. Appellant (Respondent No.3)

-vs-

1. Subathal
2. Poovathal
3. Saraswathi
4. Palanichamy
5. Gopal
6. Lakshmi Narayanan
7. Ravichandran
8. Subhathal .. Respondents (Petitioners & Respondents 1,2 & 4)
(R6 and R7 given up)

Civil Miscellaneous Appeal under section 173 of Motor Vehicle Act 1988 against the award and decreetal order made in MACTOP No.511 of 2000 dated 14.03.2005 on the file of the Motor Accidents Claims Tribunal, (Additional District Judge, Fast Track Court No.IV), Coimbatore at Tiruppur.

For Appellant : Mr. A.Babu

J U D G M E N T

This Civil Miscellaneous Appeal is directed against the award of the Motor Accidents Claims Tribunal dated 14.03.2005 made in M.C.O.P.No.511 of 2000.

2. The respondents 1 to 6 herein - claimants prayed for a compensation of Rs.5,00,000/- in respect of death of one Nanjappa Gounder who died in a road accident that took place on 06.02.2000. The Tribunal, on appreciation of oral and documentary evidence and after finding that the driver of the Transport Corporation was negligent, passed an award for Rs.1,20,500/-. Questioning the same,

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the Transport Corporation has filed this appeal.

3. The learned counsel appearing for the appellant fairly states that they are mainly aggrieved only with regard to finding relating to negligence. In such circumstances, it is unnecessary to go into other aspects.

4. It is the case of the claimants that while the deceased was getting down from the bus, the conductor without noticing him gave whistle, thereby, the driver started the bus, due to which the deceased fell down and sustained fatal injury. In support of their stand P.Ws.1 and 2 were examined. On the side of the Transport Corporation, the driver and the conductor were examined as R.Ws.1 and 2. While giving evidence, R.W.1 has stated that immediately after the accident, he made a complaint to the police. Admittedly, no such complaint was produced before the Court. On the other hand, the complaint produced on the side of the claimants which has been marked as Ex.P.1, supports the case of the claimants. Among the evidence of P.Ws. 1 and 2, the Tribunal accepted the evidence of P.W.2 and rejected the defence taken by the respondents, namely, that the deceased died due to high Blood Pressure.

5. Considering the earliest report Ex.P.1. and the evidence of eye witness P.W.2, I am in agreement with the factual conclusion arrived at by the Tribunal and there is no valid ground for entertaining the appeal. The appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

gms

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

Motor Accidents Claims Tribunal,
(Additional District Judge,)
Fast Track Court No.IV,
Coimbatore at Tiruppur.

ONE CC TO MR.A.BABU, ADVOCATE SR NO 38279
ONE CC TO MR.MA.P. THANGAVELU,SR 37996

C.M.A.No.2348 of 2006

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